



# THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

GERALD C. MANN  
~~WILLIAMSON~~  
ATTORNEY GENERAL

Honorable Ernest Tibbets  
County Attorney  
Hale County  
Plainview, Texas

Dear Sir:

Opinion No. 0-4122  
Re: Whether a temporary administrator must pay the tax and affix the stamps provided for in Article XV of House Bill 8, 47th Legislature.

We acknowledge receipt of your request for an opinion of this Department on whether or not the tax acquired by Article XV of House Bill 8, 47th Legislature, must be paid on transfers of stock by a temporary administrator to the heirs at law and the stamps affixed thereto.

Article XV, supra, provides that:

"There is hereby imposed and levied a tax . . . on . . . deliveries or transfers of shares, or certificates of stock, or certificates for rights to stock, or certificates of deposit representing an interest in or representing certificates made taxable under this Section in any domestic or foreign corporation, . . ." (Underscoring ours)

And said Article XV further provides that:

". . . It shall be the duty of the person or persons making or effectuating the sale or transfer to procure, affix, and cancel the stamps and pay the tax provided by this Article . . ." (Underscoring ours)

It will be noted that the above act is not only a tax on the sales of stock, etc., but is also a tax on the transfer of stock. The purpose of the act manifestly being to tax all transactions wherein the ownership of stock is changed.

While it is true that the title to the stock is vested in the heirs immediately upon the death of the decedent, (Smith vs. Price, 230 S. W. 836) the delivery or transfer of the stock

or stock certificates must be effectuated by some means. In this case the administrator makes the transfer.

You are, therefore, advised that under Article XV, *supra*, it is the duty of the temporary administrator to pay the tax and affix the stamps on the stock certificates he transfers.

Trusting that the foregoing fully answers your inquiry, we are

Yours very truly

ATTORNEY GENERAL OF TEXAS

By s/Richard H. Cocke  
Richard H. Cocke  
Assistant

RHC:N:wc

APPROVED OCT 23, 1941  
s/Grover Sellers  
FIRST ASSISTANT  
ATTORNEY GENERAL

Approved Opinion Committee By s/BWB Chairman